IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4761 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

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AMBIKA OIL & SUGAR CENTRE

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 4761 of 1998

MR GM JOSHI for Petitioner No. 1

MR MK DAGLI, AGP for Respondent No. 1-3

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 27/08/2002

ORAL JUDGEMENT

#. The petitioner has challenged the order passed by respondent No.1 dated 31.3.1998 in Revision Application No.159 of 1997, by which the State Government dismissed the revision application of the petitioner and confirmed the order passed by the District Collector, Surat dated

22.4.1997.

#. The petitioner was running a Fair Price Shop at the relevant time. He was subjected to the proceedings for the breach of condition No.9 of the licence issued to him under the Essential Commodities Act. It was alleged against him that, he has prepared some false bills in the name of Anupam Traders, Sachin. It is also alleged against him that, even though, the petitioner is required to obtain separate licence for the place of his business, which is not required to be transferred, in spite of that, the petitioner has transferred the licence from his original place. The District Supply Officer, thereafter, by order dated 4.12.1996 passed the order of suspending the licence of the petitioner for 90 days. Against the said order, the petitioner preferred the appeal before the Collector. The said appeal was dismissed. Against which, the revision application was preferred, but the same was also dismissed. Ultimately, the petitioner has approached this Court by way of this petition. At the time of admitting this petition, the impugned orders are stayed by this Court. Accordingly, the impugned order of suspending the licence of the petitioner for 90 days is stayed all throughout.

#. The grievance of the petitioner is that the petitioner is subjected to the double penalty, in the sense, that the petitioner was already subjected to the penalty of fine of Rs.10575/- as for this very incident, the Collector, Surat has passed the order of confiscating 10% amount of the seized stock. The said amount comes to Rs.10575/-. The said order is produced by the petitioner at page 32, which is dated 26.8.1996. It is submitted that, thereafter, it is not open for the authority, again, to suspend the licence of the petitioner for the period of 90 days. It is averred in the petition that, it is a case of double jeopardy.

#. I have gone through the petition and I have also gone through the annexures annexed with this petition.

#. It is not in dispute that the petitioner was already subjected to the penalty of confiscation of 10% amount of the seized material as per the earlier order. Under these circumstances, there was no question of imposing the penalty of suspending the licence for 90 days. The said averment is not denied by the State by filing any reply. The aforesaid order of suspending the licence of the petitioner is stayed by this Court. The said interim relief is in force since 1998.

#. Considering the facts and circumstances of the case and considering the fact that the petitioner is already subjected to the penalty of confiscation of 10% amount of the seized material in the past, by which he was asked to pay a fine of Rs.10575/-, in my view, now, it is was not necessary to pass the aforesaid order of suspending the licence. Under these circumstances, this petition is allowed, and the impugned order, by which the licence of the petitioner is suspended, is hereby quashed and set aside. Rule is made absolute accordingly with no order as to costs.

(P.B.Majmudar,J)
(pathan)